

**REMARKS**

Claims 1-8 are pending in this application. Claims 1, 2, and 4-8 are independent. In light of the remarks contained herein, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections.

In the outstanding Official Action, the Examiner rejected claims 1-8 under 35 U.S.C. § 102(b) as being anticipated by *Mizikovsky* (USP 5,559,860). Applicant respectfully traverses this rejection.

**Examiner Interview**

Applicant wishes to thank the Examiner for the interview conducted on November 9, 2004. During the interview, Applicant's representative presented arguments that *Mizikovsky* fails to anticipate the claimed invention. The Examiner indicated that she would further consider Applicant's arguments upon the filing of a proper Reply.

In accordance with the issues discussed during the interview, as memorialized herein, Applicant respectfully requests the Examiner reconsider and withdraw the outstanding rejection.

**Claim Rejections - 35 U.S.C. § 102**

In support of the Examiner's rejection of claim 1, the Examiner asserts that *Mizikovsky* teaches all of the elements as set forth in claim 1, including a first data receiving unit for receiving data transmitted from the communication apparatus wherein

the received data includes information identifying the received data as voice, text, image, or moving picture data. In support of this assertion, the Examiner asserts that *Mizikovsky* teaches caller ID processor 44 being adapted to compare the receiving calling party identifying data with the identifying data previously stored in caller ID memory 46 to determine if the calling party is one of the previously selected or preprogrammed calling parties disclosed in col. 8, lines 13-18. Applicant maintains that these teachings are insufficient to teach or suggest the claimed invention.

Applicant agrees with the Examiner that *Mizikovsky* teaches a mobile telephone including a caller ID processor 44 and a caller ID memory 46. *Mizikovsky* provides the ability for the user to utilize keypad 42 to enter information associating calling party identifying data with a predetermined response category (col. 6, lines 18-23). As discussed throughout the Detailed Description of *Mizikovsky*, the information that is received at the mobile telephone includes information that merely identifies the calling party. *Mizikovsky* indicates that this information can be a telephone number, a name, organization, location, etc., of the calling party (col. 4, lines 54-60; col. 8, lines 4-7; etc.). There is no teaching or suggestion in either the summary of the invention or the detailed description that indicates that the mobile telephone receives information identifying the received data as voice, text, image, or moving picture data. *Mizikovsky* merely

teaches that the mobile telephone receives, for example, the telephone number of the calling party. Applicant maintains that this teaching is insufficient to teach or suggest information identifying the received data as voice, text, image, or moving picture data. The telephone number of the calling party merely identifies where the call is generated from. *Mizikovsky* clearly teaches that the association of the telephone number with a response category is entered by the user at the mobile telephone. Based upon these teachings, Applicant maintains that *Mizikovsky* fails to teach or suggest all of the claim elements and thus fails to anticipate the present invention. As such, it is respectfully requested that the outstanding rejection be withdrawn.

During the interview, the Examiner indicated that the Background portion of *Mizikovsky* discusses prior art systems that include an alert message including various codes arranged as multi-bit information words to identify the type of message being transmitted, the number of words included in the message, and various other types of information that are used in cellular telephone systems. In response to this argument, Applicant submits that this teaching is clearly designated with respect to prior art systems and not the system as set forth in *Mizikovsky*. As such, should the Examiner rely on these teachings, Applicant respectfully submits that 35 U.S.C. § 102 is the improper section of the statute to assert this rejection. Further, Applicant respectfully submits

that the mere statement that an alert message includes various codes as set forth in col. 1, lines 28-32, fails to provide adequate enablement in order to cure the deficiencies of the teachings as set forth in the disclosure directed to the system set forth in *Mizikovsky*.

For all the reasons set forth above, it is respectfully requested that the outstanding rejection be withdrawn.

It is respectfully submitted that claims 2 and 4-8 contain elements similar to those discussed above with regard to claim 1, and thus claims 2 and 4-8, together with claims dependent thereon, are not anticipated by *Mizikovsky* for the reasons set forth above with regard to claim 1.

#### Conclusion

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Catherine M. Voisinnet (Reg. No. 52,327) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.


\*If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

D. Richard Anderson, #40,439

  
DRA/CMV/jdm  
0905-0236P

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000